

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FISH AND GAME

Call to Order: By **VICE CHAIRMAN MIKE TAYLOR**, on March 2, 1999 at 3:00 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Jack Wells (R)

Members Excused: Sen. Ken Mesaros, Chairman (R)
Sen. Steve Doherty (D)
Sen. Chuck Swysgood (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 344, 3/2/1999; HB 215,
3/2/1999
Executive Action: None.

HEARING ON HB 344

Sponsor: REPRESENTATIVE BOB RANEY, HD 26, Livingston

Proponents: Arnie Olsen, Fish Wildlife and Parks
George Ochenski, Helena
Jerry Wells, Trout Unlimited
Janet Ellis, MT Audubon

Opponents: None.

Opening Statement by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, said the bill stated when the FWP is in the process of acquiring wildlife easements, they consider the fishing potential of the easement. He referred to page 2, line 20-21 which says the FWP should include the value of the riparian zones, fish habitat, nutrient barriers, in stream flows and wild fish spawning when in the process of acquiring wildlife easements. Nothing says FWP has to abide by the bill, nothing says the landowner must do this or the landowner would even want to. The request is to at least evaluate it. He said habitat is the single source which will do the most for the recovery of Bull Trout and Cut Throat Trout.

{Tape : 1; Side : A; Approx. Time Counter : 1.2}

Proponents' Testimony:

Arnie Olsen, Fish Wildlife and Parks, entered written testimony, **EXHIBIT(fis47a01).**

George Ochenski, Helena, explained why the bill was established. He entered and discussed articles from *Montana Magazine* and *National Range Magazine*, **EXHIBIT(fis47a02).** The articles illustrated there are real potential to preserve Cut Throat Trout in these tiny streams. He does not think this will be a problem for the landowners or the state. He also does not think it will cost anybody any money.

Jerry Wells, Trout Unlimited, said they think this is an excellent bill. They strongly support the Habitat Montana Program and they believe this will make it even better.

Janet Ellis, MT Audubon, agreed with other testimony.

Opponents' Testimony: None

{Tape : 1; Side : A; Approx. Time Counter : 4.9}

Questions from Committee Members and Responses:

SENATOR BECK asked if the FWP department sold an easement would they pay more and above for the fishing easement. Could the two be separated on a conservation easement, so the rancher could decide if he didn't want the fishery easement then he could still get a wildlife and game easement? **Arnie Olsen** replied that is exactly right. That is why they requested the amendment in the house. They were concerned of the way the bill was originally mandated. The FWP wants to work with the landowners.

SENATOR BECK asked if the department has done any of these easements for the control of the endangered species on spawning grounds, etc. **Arnie Olsen** said he would have to get that information to him. The department has some easements which benefit some of the species like Yellowstone, Cut Throat, and Bull Trout. The department may not have acquired the easements specifically for that purpose but they are in a package that protects other values.

SENATOR ELLINGSON asked if a conservation easement was acquired on the Grady Ranch or if it was a habitat easement. **Arnie Olsen** said it was a conservation easement basically for the habitat.

SENATOR ELLINGSON asked within the conservation easements, are there requirements upon the property with respect to the maintenance fisheries or was it simply ignored. **Arnie Olsen** didn't think "ignored" was the proper term. He said when they look at easements, they look at the primary values that they are trying to preserve. The concerns at the Grady Ranch were big game values. There are some values for anglers because of the access provided along with the conservation easements. The department also evaluates the overall quality of the stream and what it contributes overall in terms in fisheries. They also determine whether the stream is relatively protected with or without the easement. **SENATOR ELLINGSON** asked if the bill was in place when the conservation easement was acquired on the Grady Ranch. Does Mr. Allen think the price of the easement would have been greater and would the structure of the relationship have included specific reference to the fisheries that are not there right now. **Mr. Olsen** said he could only speculate on the questions because it is in the past. The department has to have a willing landowner who is willing to make the fishing easement part of the negotiation. He couldn't say if the landowner would or would not have been interested in the easement. The bill would require the department to analyze streams and talk to the landowner about it.

{Tape : 1; Side : A; Approx. Time Counter : 9.1}

Closing by Sponsor:

REPRESENTATIVE BOB RANEY, HD 26, Livingston, said the first thing to remember this is all voluntary, no landowner is required to do this and the department is not required to do this. Most of the easements are for wildlife but the streams also benefit the big game such as birds. This also could be used to bring in other programs which have been developed over the years. The bill emphasis how we want to move toward protecting the native fish.

{Tape : 1; Side : A; Approx. Time Counter : 10.5}

HEARING ON HB 215

Sponsor: **REPRESENTATIVE DAVID EWER, HD 53, Helena**

Proponents: **Len Kopec, Helena**
David Brown, MT Bowhunters' Association
Van Jaminson, MT Wildlife Federation

Opponents: **Tim Ravndal, Townsend**

Opening Statement by Sponsor:

REPRESENTATIVE DAVID EWER, HD 53, Helena, explained why the bill was established. He entered an article from *Time* magazine, **EXHIBIT(fis47a03)**. He said the bill says ethical hunters do not use motion tracking devices as a matter of ethics and now as a matter of law. He also entered a suggested amendment by Representative Clark, **EXHIBIT(fis47a04)**. He is not sure the amendment is needed. There was some concern whether hunting dogs with tracking devices on in order for their owner to keep track of them would be included under the bill. He believes the commission can take care of the issue but will leave the amendment up to the committee.

Proponents' Testimony:

Len Kopec, Helena, explained where he came up with the idea for the bill. He discussed an article he read on a motion tracking device used for hunting. He said the electronic equipment is not developed for hunters or by hunter, it is developed by marketers and advertisers for money. He commented on a letter from Pat Graham of the FWP. The letter said it is up to society to decide what is or is not appropriate technology to use while hunting. Since the invention of modern firing arms, there has not been much change in hunting. He listed electronic equipment hunters use while hunting. He said the equipment is bad for the ethics which are taught in the Fish and Games hunter education classes.

David Brown, MT Bowhunters' Association, said the association discussed the technology extensively and in result of their discussion they felt this issue needed to be addressed. The association supported HB 215 as drafted. They are concerned about ethical hunting techniques and technology. They are going to conduct a study because of the opinions on what is acceptable.

Van Jaminson, MT Wildlife Federation, said the association supports the bill for the reasons of promoting fair chase hunting and ethical hunting behavior.

{Tape : 1; Side : A; Approx. Time Counter : 18.0}

Opponents' Testimony:

Tim Ravndal, Townsend, said as written the bill has good intent and purpose. He supports the amendment to exclude hound recovery systems. He said the bill can be interpreted to include the recovery systems he uses. He said the hound recovery system is an electronic device but is not used in the fair chase of game. The device is used in the recovery of some valuable livestock.

Informational Testimony:

Arnie Olsen, FWP, entered written testimony, **EXHIBIT(fis47a05)**.

{Tape : 1; Side : A; Approx. Time Counter : 21.4}

Questions from Committee Members and Responses:

SENATOR WELLS referred to Section 1. He explained he uses threat across a trail to see where the deer are walking. He asked if the department would find it appropriate to add in the word "electronic" in describing the motion tracking devices. **Arnie Olsen** replied the legislature could provide whatever guidance to the commission which they think is appropriate. He said the department was going to use the commission as a forum to bring the public in and help decide what is inappropriate. He said the more the legislature restricts the bill, the easier it will be for the commission.

SENATOR CRISMORE asked about the night vision, if a hunter can use the device when they are not hunting. **Arnie Olsen** referred the question to a game warden who was present. **Mike Ottman, Game Warden**, said it is not against the law to use the devices for other recreation.

SENATOR EKEGREN asked what is a four-inch bolt that you would shoot. **David Brown** explained it is a four-inch bolt which has a broad head on the front of it and is made out of steel. The bolt does not need feathers on it. He said it is kind of a duplication to the cross bow.

SENATOR EKEGREN asked what the hunter did before monitors and if the monitor is used so the hunter does not lose the animal. **Tim Ravndal** said that is the main purpose of the device. He explained how he uses the device while hunting.

SENATOR EKEGREN asked if it is not feasible to say you hunt with certain kinds of weapons. The committee will be changing laws every two years to keep up with technology. **REPRESENTATIVE EWER** replied it could be a possibility for them to change the law every two years.

SENATOR BECK said he will put the amendment in the bill. The amendment does not hurt the bill and it will relieve the fears from the people using dogs to hunt. **REPRESENTATIVE EWER** supported the spirit of the bill.

SENATOR BECK asked when the bill was amended by in the House and it was said, "as defined by commission rules", he assumed there are no rules made up at the present time. **REPRESENTATIVE EWER** replied that is his understanding. He didn't know the protocol. He said there is precedent in the law to restrict certain activities.

SENATOR BECK said he understood in order to give someone the permission to make a rule that you had to give them rule making authority in some section of the bill. **REPRESENTATIVE EWER** referred the question to the FWP Department. **Arnie Olsen** said the commission already has the authority. The bill outlaws motion tracking devices but it makes the commission define what that means.

{Tape : 1; Side : A; Approx. Time Counter : 30.4}

Closing by Sponsor:

REPRESENTATIVE DAVID EWER, HD 53, Helena, referred to the article he submitted. He commented on the statement of the article which asked if children should hunt.

*{Tape : 1; Side : A; Approx. Time Counter : 31.7; Comments :
Hearing closed for HB 215.}*

SENATOR BECK asked Representative David Ewer if he had anyone to sponsor the bill on the Senate Floor.

SENATOR WELLS volunteered to carry the bill on the Floor.

ADJOURNMENT

Adjournment: 3:40 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT (fis47aad)